

IC 35-37-3

Chapter 3. Witness Immunity

IC 35-37-3-1

Refusal of witness to answer or produce item; hearing; decision on right to refuse

Sec. 1. (a) If a witness, in any hearing or trial occurring after an indictment or information has been filed, refuses to answer any question or produce any item, the court shall remove the jury, if one is present, and immediately conduct a hearing on the witness's refusal. After such a hearing, the court shall decide whether the witness is required to answer the question or produce the item.

(b) If the prosecuting attorney has reason to believe that a witness will refuse to answer a question or produce an item during any criminal trial, the prosecuting attorney may submit the question or request to the trial court. The court shall hold a hearing to determine if the witness may refuse to answer the question or produce the item.

As added by Acts 1981, P.L.298, SEC.6.

IC 35-37-3-2

Self-incrimination; request for use immunity

Sec. 2. If the court determines that the witness, based upon his privilege against self-incrimination, may properly refuse to answer a question or produce an item, the prosecuting attorney may make a written request that the court grant use immunity to the witness, in accordance with section 3 of this chapter.

As added by Acts 1981, P.L.298, SEC.6.

IC 35-37-3-3

Grant of use immunity; instruction of witness; contempt; perjury

Sec. 3. (a) Upon request of the prosecuting attorney, the court shall grant use immunity to a witness. The court shall instruct the witness, by written order or in open court, that any evidence the witness gives, or evidence derived from that evidence, may not be used in any criminal proceeding against that witness, unless the evidence is volunteered by the witness or is not responsive to a question by the prosecuting attorney. The court shall instruct the witness that he must answer the questions asked and produce the items requested.

(b) A grant of use immunity does not prohibit the use of evidence the witness has given in a prosecution for perjury under IC 35-44-2-1.

(c) If a witness refuses to give the evidence after he has been granted use immunity, the court may find him in contempt.

As added by Acts 1981, P.L.298, SEC.6.